

## **Plaintiffs' Exhibit SS**

**DEBORAH OWENS**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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SIERRA BOUCHER, LILY ENGBRECHT,  
NATASSIA TUHOVAK, HANNAH WHELAN, and  
CASSIDY WOOD,

Plaintiffs,

- against -

Case No.  
1:22-cv-00381-CCR

TRUSTEES OF CANISIUS COLLEGE,

Defendant.  
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Examination before trial of **DEBORAH OWENS**, Defendant, taken pursuant to the Federal Rules of Civil Procedure, in the offices of JACK W. HUNT & ASSOCIATES, INC., 1120 Liberty Building, Buffalo, New York, on September 19, 2024, commencing at 9:32 a.m., before MEGAN TITUS, Notary Public.

**JACK W. HUNT & ASSOCIATES, INC.**

10:10:34 1           **A.**    So, yes, investigations were driven by  
10:10:40 2           the desire of the student. I do not know if the  
10:10:43 3           institution, at that point in time, told a student  
10:10:47 4           that unless there was a reason they needed to  
10:10:53 5           investigate anyways without that person's consent.  
10:10:58 6           I just know that became a demand or a rule with the  
10:11:03 7           Final Rule 2020.

10:11:05 8           **Q.**    Okay. So let's go to what's been  
10:11:13 9           marked as Plaintiff's 34, the 2017 policy. And I'm  
10:11:19 10          going to direct your attention to the page marked  
10:11:25 11          Canisius 16, these little numbers on the lower  
10:11:30 12          right.

10:11:34 13                 And I'm going to direct your attention to  
10:11:37 14          the section called A, reporting to the college. Do  
10:11:41 15          you see that?

10:11:41 16           **A.**    Yup.

10:11:43 17           **Q.**    Yes.

10:11:43 18           **A.**    Yes. Oh, yes. Sorry. Yes.

10:11:45 19           **Q.**    Okay. So the second paragraph reads as  
10:11:49 20          follows: The college respects an individual's  
10:11:52 21          decision in regards to reporting. If an individual  
10:11:56 22          chooses not to report or otherwise participate in  
10:12:01 23          the college review of the incident, the college may

10:12:04 1 pursue the matter without the individual's  
10:12:08 2 participation in accordance with Title IX  
10:12:12 3 requirements.

10:12:12 4 Did I read that correctly?

10:12:14 5 A. Yes.

10:12:14 6 Q. So the policy that was in effect as of  
10:12:19 7 May 8th, 2017, at Canisius stated clearly that the  
10:12:24 8 college could conduct a Title IX investigation even  
10:12:28 9 if the student did not want to participate,  
10:12:32 10 correct?

10:12:32 11 MR. D'ANTONIO: Form.

10:12:36 12 THE WITNESS: And to read further in the  
10:12:38 13 paragraph, it does state exactly -- in much better  
10:12:42 14 terms what I said, however, that it would -- the  
10:12:45 15 Title IX coordinator would review it and make an  
10:12:48 16 assessment of any risk of harm to the individual  
10:12:50 17 who chose not to report and/or to the broader  
10:12:54 18 college community and would take steps necessary to  
10:12:58 19 address those risks.

10:12:59 20 BY MS. NANAU:

10:12:59 21 Q. I understand that's what it says later  
10:13:02 22 in the paragraph. But I'm asking you to agree with  
10:13:04 23 me that the college policy states that the college

10:13:07 1 had the authority to pursue a Title IX matter  
10:13:11 2 without the individual's participation.

10:13:14 3 **MR. D'ANTONIO:** Objection to form. That's  
10:13:17 4 not the entirety of the paragraph is what Ms. Owens  
10:13:20 5 puts out.

10:13:21 6 **MS. NANAU:** I understand. But I'm -- I  
10:13:22 7 just -- I just need us to have a basic agreement  
10:13:25 8 with that sentence and what it means. Then, we can  
10:13:29 9 go on into paragraph and have a wider understanding  
10:13:32 10 of this section.

10:13:33 11 But I need to understand that that's what --  
10:13:35 12 do we agree or not? Like, that's what I'm asking,  
10:13:39 13 Ms. Owens.

10:13:40 14 **THE WITNESS:** So I would --

10:13:41 15 **MR. D'ANTONIO:** Form.

10:13:41 16 **THE WITNESS:** -- agree we have the right to  
10:13:44 17 do that under certain circumstances.

10:13:47 18 **BY MS. NANAU:**

10:13:47 19 **Q.** Okay.

10:13:48 20 **A.** And that's explained to the person  
10:13:49 21 reporting.

10:13:50 22 **Q.** Okay. So your testimony today is that  
10:13:52 23 then prior to implementation of this policy, which

10:13:57 1 is Plaintiff's 34, whether or not the college would  
10:14:04 2 pursue an investigation was up to the student? Is  
10:14:08 3 that what you're saying?

10:14:10 4 **MR. D'ANTONIO:** Objection mischaracterizes.

10:14:14 5 **MS. NANAU:** I'm just trying to understand  
10:14:15 6 what the testimony is.

10:14:17 7 **THE WITNESS:** I believe at any point in  
10:14:20 8 time -- and again, there was a lot of material to  
10:14:24 9 review in terms of these timeframes -- but I  
10:14:27 10 believe in the other policies, it still most likely  
10:14:30 11 stated the same exact thing, that we like to  
10:14:33 12 respect the wishes of the individual's decision,  
10:14:36 13 but with the same caveat here.

10:14:40 14 If we review the facts and we assess that  
10:14:43 15 there may be continued risks to that person or the  
10:14:48 16 broader college community, that the college would  
17 have the right still to pursue.

10:14:50 18 **BY MS. NANAU:**

10:14:50 19 **Q.** Okay. And that's based on your belief,  
10:14:52 20 correct? We don't have the document in front of  
10:14:56 21 us.

10:14:57 22 **A.** Yes, only because I don't have the  
10:14:58 23 document in front of me to refer to and remember

10:15:02 1 from reading them all. Yes.

10:15:04 2 Q. Okay. So I'm going to now direct your  
10:15:07 3 attention to the page Canisius 20. There's part --  
10:15:15 4 it's in the middle of the page, H, consent prior to  
10:15:19 5 investigation. Do you see that?

10:15:21 6 A. Mm-hmm. Yes.

10:15:25 7 Q. So I'm going to read the section into  
10:15:29 8 the record. The college generally will seek  
10:15:33 9 consent from reporting individuals prior to  
10:15:37 10 conducting an investigation.

10:15:40 11 Declining to consent to an investigation  
10:15:42 12 generally will be honored unless the college  
10:15:46 13 determines in good faith that failure to  
10:15:49 14 investigate does not adequately mitigate a  
10:15:53 15 potential risk of harm to the reporting individual  
10:15:55 16 or other members of the community.

10:15:57 17 Did I read that correctly?

10:15:59 18 A. Yes, you did.

10:16:00 19 Q. Okay. So this was Canisius's policy  
10:16:04 20 with regard to the investigation of Title IX  
10:16:08 21 complaints as of May 2017, correct?

10:16:11 22 A. Correct.

10:16:11 23 Q. They would generally seek the consent

10:16:15 1 of the reporting individual; however, the college  
10:16:18 2 could also determine in good faith that their  
10:16:22 3 failure to investigate would not mitigate the risk  
10:16:25 4 of harm, correct?

10:16:27 5 **A.** Correct.

10:16:27 6 **Q.** Okay. Now, is your testimony today  
10:16:32 7 that this portion of the sexual misconduct policy,  
10:16:39 8 which was in effect in 2017, is very similar to the  
10:16:43 9 policy that was in effect prior to May 8th of 2017?

10:16:48 10 **A.** Yes.

10:16:48 11 **Q.** Okay. So in essence, the -- the policy  
10:16:54 12 states that the college would seek the consent of  
10:17:00 13 the reporting individual to conduct an  
10:17:02 14 investigation, but if they believed they had to  
10:17:07 15 conduct an investigation and the reporting  
10:17:08 16 individual did not consent, they might have to do  
10:17:12 17 that anyway, right, conduct an investigation?

10:17:16 18 **MR. D'ANTONIO:** Object to the form. Policy  
10:17:17 19 speaks for itself. You may answer.

10:17:21 20 **THE WITNESS:** So yes. Looking at mitigating  
10:17:24 21 factors, yes.

10:17:25 22 **BY MS. NANAU:**

10:17:25 23 **Q.** Okay. So now, I'm going to direct your



10:17:40 1 attention to No. 6 of the deposition notice that's  
10:17:47 2 on page 2.

10:17:52 3 So the defendant's response to the  
10:17:56 4 complaints raised in 2017 by Dr. Malini Suchak and  
10:18:03 5 Dr. Joshua Russell to Dr. Elizabeth Gill, then dean  
10:18:08 6 of the College of Arts and Sciences at Canisius  
10:18:12 7 College regarding inappropriate conduct by  
10:18:16 8 Dr. Michael Noonan during school-sponsored trips?

10:18:21 9 Did I read that correctly?

10:18:22 10 A. Yes, you did.

10:18:23 11 Q. Okay. Are you aware of Canisius's  
10:18:25 12 response to the complaints raised by Dr. Suchak and  
10:18:31 13 Dr. Russell regarding Dr. Noonan in 2017?

10:18:33 14 A. No.

10:18:34 15 Q. Okay. Now, let me ask you this: With  
10:18:40 16 regard to the sexual misconduct policy that we've  
10:18:43 17 been discussing, Plaintiff's 34, is this the policy  
10:18:47 18 that is still in effect, the one that's dated  
10:18:50 19 May 8th, 2017?

10:18:52 20 A. I'm sorry. Can you repeat that?

10:18:54 21 Q. Sure. Plaintiff's 34 is the sexual  
10:18:57 22 misconduct policy for Canisius College as of  
10:19:01 23 May 8th, 2017, correct?